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Governor's Health Care Reform Implementation Council  
James R. Thompson Center  
100 West Randolph, Suite 16-100  
Chicago, IL 60616

*Via E-mail: gov.healthcarereform@illinois.gov*

Subject: Essential Health Benefits and Plan Structure – Health Savings Accounts (HSAs)

Dear Members of the Governor's Health Care Reform Implementation Council:

The Affordable Care Act (ACA) contains only two direct changes to health savings accounts (HSAs): eliminating the ability to use funds tax-free for over-the-counter drugs without a prescription and increasing the early withdrawal penalty for non-qualified expenses from 10% to 20%. However, the indirect impacts associated with the law could have a devastating impact to the growth of HSAs and even jeopardizes the existence of HSAs. The number of Americans enrolled in HSAs surpassed 13.5 million in January 2012 according to the AHIP Center for Policy and Research, and enrollment has continued to rise each year since becoming a part of the law in 2004. HSAs have become a vital resource for many Americans to obtain quality, affordable care, and maintaining their existence needs to be taken into consideration as federal and state based exchanges are implemented.

ACA uses a different approach to health insurance, from a broad perspective, in comparison to consumer-directed plans that include HSAs. ACA mandates insurance coverage and provides details as to what benefits health insurance coverage should include such as essential care and preventive services. Consumer-directed plans support a philosophy that individuals should take charge of health care dollars and pay for more routine expenses on their own with insurance coverage paying for large or even catastrophic expenses. HSAs also encourage saving for future healthcare expenses, an important attribute to consider as our population continues to grow older. Fidelity Investments estimates that the average 65 year old married couple retiring in 2012 will need \$240,000 to cover medical expenses in retirement.

Americans must meet certain eligibility requirements to establish an HSA. This includes coverage through a qualified high deductible health plan (HDHP) as defined by the Internal Revenue Service (IRS) and regulated by other agencies including the Department of Labor (DOL) and the Department of Health and Human Services (HHS). Most of the indirect impacts to HSAs reflect plan design and question whether or not a qualified HDHP will continue to exist. In the absence of a qualified HDHP nobody would meet the eligibility requirements to establish an HSA. As we move closer to January 1, 2014, the date that exchanges begin to facilitate enrollment, it's important to take certain items into consideration to ensure the longevity and existence of HSAs.

ACA requires group and individual health plans to cover preventive services without cost sharing. This includes coverage for evidence-based preventive care, immunizations, infant care and female care. Qualified



HDHPs, by definition, prohibit coverage for first dollar benefits with the exception of preventive services. As legislation continues to be interpreted and policy provisions are implemented, it's important to ensure that the definition of preventive care under ACA is the same definition that is used for qualified HDHPs. This would continue to make HSAs a viable option for Americans and allow them to seek preventive care to potentially avoid more expensive care in the future.

ACA legislation also indicates that small employers will have to select lower deductible HDHPs than currently allowed. The current law allows for deductible options up to \$6,050 for single coverage and \$12,100 for family coverage in 2013. ACA legislation sets maximum deductibles of \$2,000 for single coverage and \$4,000 for family coverage beginning in 2014. This change will decrease choice and increase premiums causing many small businesses to terminate benefits offered to employees. For HSAs to remain viable and see continued growth, deductible options similar to those that exist today should be offered and include annual cost of living adjustments.

**Essential health benefits have more recently become a critical issue for consumer-directed plans and HSAs. The decision to determine which benefits will be required in basic health insurance plans has been left with each state to decide. Governor Pat Quinn has the daunting task to make this important decision by September 30, 2012, one that will have major implications on the cost of future premiums and how coverage will be provided to thousands of Illinois residents. Consumer-directed plans should include coverage for essential health benefits as defined at the state level, however, cost sharing structures should allow for qualified HDHPs to remain as an option in the market. If essential health benefits were to waive deductible and other cost sharing requirements, then qualified HDHPs would no longer exist and Illinois residents would be forced to find other sources to pay for out of pocket medical expenses. Allowing for a properly structured qualified HDHP to remain would ensure Illinois residents could continue taking advantage of the benefits of HSAs.**

At first glance ACA doesn't appear to impact consumer-directed plans and HSAs that much. The acronym HSA was actually only referenced six times in the entire law. The law has minimal direct impact on HSAs and their existence, but indirect consequences should not be overlooked. As federal and state exchanges become a reality there should be at least one qualified HDHP option available in the bronze, silver, gold and platinum benefit categories. Consumer-directed plans including HSAs are not a part of the healthcare problem, and should be considered part of the solution. Please take these comments into consideration as important healthcare decisions are made on behalf of our residents. Illinois is far from a "one size fits all" state, and sustaining consumer-directed plans and HSAs should be a protected right of citizens that see advantages not only today, but also for the future of their healthcare.

Sincerely,

A handwritten signature in black ink, appearing to read 'John DiVito', enclosed within a large, loopy oval.

John DiVito  
President